

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7025

BILL NUMBER: SB 314

NOTE PREPARED: Jan 7, 2003

BILL AMENDED:

SUBJECT: Drug Paraphernalia.

FIRST AUTHOR: Sen. Long

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: The bill removes provisions making the reckless possession or sale of drug paraphernalia a Class A misdemeanor or a Class D felony for repeat offenses.

Effective Date: July 1, 2003.

Explanation of State Expenditures: On average between FY 1997 and 2001, there were 21 people committed to Department of Correction (DOC) facilities for violation of Class D felony possession of paraphernalia and 13 people committed for Class D felony dealing in paraphernalia. The records do not indicate if these offenders were committed under the provisions for the simple crime or reckless possession and dealing of paraphernalia which would be eliminated under the bill.

A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$25,087 in FY 2001. Individual facility expenditures ranged from \$18,520 to \$54,465. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually, or \$5 daily, per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Assuming that the average number of commitments continues, that half of the offenders committed to the Department of Corrections were sentenced for sections proposed to be eliminated, that these offenders would not otherwise be sentenced under other provisions, and that all offenders serve the average length of stay, the Department of Corrections would need 14 fewer beds to house these offenders beginning in FY 2004.

Explanation of State Revenues: If fewer court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund would decrease. The maximum fine for a Class D felony is \$10,000 and for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. Cases filed in a circuit, superior, or county court result in 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered being deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: If fewer defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. Also, a Class A misdemeanor is punishable by up to one year in jail. The average cost per day is approximately \$44.

Explanation of Local Revenues: If fewer court actions occur and a guilty verdict is entered, local governments would receive less revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. (2) A \$3 fee would be assessed and, if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed and, if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Correction.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs Association, Department of Correction.

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